

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-557-C - ORDER NO. 93-413
MAY 14, 1993

IN RE: Generic Proceeding to Review) ORDER CONTINUING
Premises Owner Surcharge Applied) PREMISES OWNER
by Certain Operator Service) SURCHARGE
Providers.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Commission's decision to review the Premises Owner Surcharge (also known as Subscriber Charges or Property Imposed Fee). On October 6, 1992, the Commission ordered the Staff to initiate a proceeding to review the Premises Owner Surcharge, and the instant docket was created to receive evidence accordingly. All Alternate Operator Service Providers and Interexchange Carriers were made parties to the proceeding. A hearing was set for April 21, 1993, in the Commission's Hearing Room at 10:30 a.m. to receive evidence in this matter.

The hearing was duly convened before the Commission, the Honorable Henry G. Yonce, presiding. Harry M. Lightsey, III, Esquire, appeared on behalf of BellSouth Communications, Inc. (BellSouth); John M. S. Hoefer, Esquire, appeared on behalf of SouthernNet of South Carolina, Inc. (SouthernNet); John F. Beach, Esquire, appeared on behalf of International Payphones, Inc.

(International) and with Robert Coble, Esquire, represented The South Carolina Public Communications Association (S.C. Public Communications Association); Carl F. McIntosh, Esquire, represented the South Carolina Department of Consumer Affairs (the Consumer Advocate); Frank R. Ellerbe, III, appeared on behalf of One Call Communications, Inc. (One Call); and F. David Butler, General Counsel, and Florence P. Belser, Esquire, represented the Commission Staff. The South Carolina Hotel and Motel Association (S.C. Hotel and Motel Association) participated in these proceedings in that it sponsored several witnesses with SouthernNet, but the S. C. Hotel and Motel Association was not represented by counsel and did not participate further in the proceedings.

The Commission established this docket to institute a generic proceeding to address the issues surrounding the Premises Owner Surcharge. The Commission considered the testimony of witnesses testifying on behalf of the Commission Staff, SouthernNet and the S.C. Hotel and Motel Association, and the S.C. Public Communications Association.

James M. McDaniel, Chief of the Telecommunications Department of the Utilities Division, testified on behalf of the Commission Staff. Witness McDaniel testified that the Staff recommended that the provision in the tariffs to allow the Operator Service Providers to bill this Premises Owner Surcharge on behalf of the premise owner be eliminated. (McDaniel, Prefiled Testimony, p. 5, line 22 through p. 6, line 2). Mr. McDaniel stated that he was not

aware of any cost basis for the Premises Owner Surcharge other than competitive purposes. (McDaniel, Prefiled Testimony, p. 7, lines 12 through 16). Additionally, Mr. McDaniel expressed concern that the existence of this surcharge was not adequately relayed to the customer, and that the customer was unaware of the charge being added to his/her bill, because the charge may be aggregated with the total charges for the call. In the alternative to eliminating the Premises Owner Surcharge, Mr. McDaniel stated that the Staff would recommend additional notification of this surcharge, so that the customer may make an informed decision as to whether to complete the call over the presubscribed carrier. (McDaniel, Prefiled Testimony, p. 7, lines 17 through 24).

The initial question to be addressed by these proceedings is whether or not to allow the Premises Owner Surcharge to continue to exist. The evidence presented at the hearing indicates that the Premises Owner Surcharge allows a hotel or motel to defray the costs of a private branch exchange (PBX) which most, if not all, hotels or motels must install to allow guests to communicate not only within the facility, but also complete calls outside the facility. The testimony revealed a strong concern that elimination of the Premises Owner Surcharge would result in higher room rates in the hotel/motel industry.

After due consideration, this Commission believes that the Premises Owner Surcharge should be continued. Thomas L. Sponseller, Executive Director of the South Carolina Hotel and Motel Association (SCHMA), testified that the Premises Owner

Surcharge allows a hotel/motel to recover some of the costs associated with operating a PBX at a hotel/motel from the actual users of the system. (Sponseller, Prefiled Testimony, p. 5, lines 16 through 18). According to Witness Sponseller, elimination of the Premises Owner Surcharge would result in hotel/motel operators either foregoing the revenues from the surcharge altogether or increasing room rates to compensate for the lost revenue. (Sponseller, Prefiled Testimony, p. 6, lines 15 through 20). Either option is detrimental to the tourism industry, as the loss revenue would decrease the funds available for expansion of facilities and services or for improving existing facilities and services, while increasing room rates could only hurt the ability of South Carolina hotels and motels to compete with hotels and motels in neighboring states. (Sponseller, Prefiled Testimony, p. 6, line 22 through p. 7, line 13).

Witness Sponseller also testified regarding the cost basis of the Premises Owner Surcharge. According to Witness Sponseller, there are very real costs associated with making PBX facilities available to customers, the least of which are the acquisition of the PBX itself. (Sponseller, Prefiled Testimony, p. 4, lines 3 through 6; p. 4, line 25 through p. 5, line 1). Additionally, there are costs associated with maintenance of the unit, power to supply the PBX, and expenses associated with having personnel to operate the PBX system or having additional electronic equipment to support live operator staffing. (Sponseller, Prefiled Testimony, p. 4, line 25 through p. 5, line 6).

Donald M. Schuster testified on behalf of SouthernNet and SCHMA. Witness Schuster concurred with the testimony of Mr. Sponseller that elimination of the Premises Owner Surcharge could have a negative impact on the tourism industry in South Carolina. (Schuster, Prefiled Testimony, p. 2, lines 11 through 14). Witness Schuster also testified that the availability of the Premises Owner Surcharge allows hotels and motels to recover a portion of the costs of operating and maintaining the PBX. (Schuster, Prefiled Testimony, p. 3, lines 12 through 17, p. 4, lines 6 through 10). Without the Premises Owner Surcharge, costs associated with the PBX would have to be charged to all customers of the hotel or motel instead of charging the customers who actually use the system, resulting in higher room rates for all instead of the current method where the costs of the system fall on the users of the system. (Schuster, Prefiled Testimony, p. 4, lines 16 through 22).

The South Carolina Public Communications Association offered the testimony of Gene R. Stewart, owner of International Payphones, Inc. Mr. Stewart testified that the availability of the Premises Owner Surcharge enhances the level of services offered to the general public. (Stewart, Prefiled Testimony, p. 3, lines 24 through 26). By allowing a means whereby the hotel patrons contribute to the payment of the fixed costs of the system, the hotel owner is encouraged to invest in the equipment necessary to provide enhanced telephone access for its customers. (Stewart, Prefiled Testimony, p. 4, lines 16 through 20). Witness Stewart

also testified that the current arrangement of the Premises Owner Surcharge is fair and equitable, because only those using and benefiting from the operator services help to pay for the costs. (Stewart, Prefiled Testimony, p. 7, lines 20 through 23). Additionally, the Premises Owner Surcharge is made to the business who has made the capital investment for the operator services to be offered. (Stewart, Prefiled Testimony, p. 8, lines 1 through 4). Also the customer may avoid both the utilization of the operator services and the resultant payment of the Premises Owner Surcharge by dialing around the preselected operator service. (Stewart, Prefiled Testimony, p. 9, lines 1 through 7). Mr. Stewart further testified that elimination of the Premises Owner Surcharge would be detrimental to the general public of South Carolina because the availability of the surcharge has made it possible for businesses such as hotel and payphone providers to provide operator assisted services in areas where they might otherwise be unavailable. (Stewart, Prefiled Testimony, p. 9, line 26 through p. 10, line 3).

For the foregoing reasons, this Commission finds that the Premises Owner Surcharge should be continued in South Carolina. This Commission finds that the Premises Owner Surcharge is an effective means to defray the costs associated with providing quality telecommunication service to the public.

While this Commission finds that the Premises Owner Surcharge should be continued, this Commission is also of the opinion that better notification of the imposition of the surcharge should be given to the customer, or end user of the service. According to

the testimony of Witness McDaniel, the Premises Owner Surcharge may be aggregated with the total charges for the phone call, and the customer may not be aware of the existence of the surcharge. However, Mr. McDaniel acknowledged during questioning by the Commission that a customer may "dial around" the presubscribed carrier and thereby avoid the Premises Owner Surcharge if the customer is aware of the surcharge and its implications.

Mr. Stewart also admitted that customers may utilize calling cards to access their carrier of choice, and thereby avoid a presubscribed carrier. (Stewart, Prefiled Testimony, p. 7, lines 23 through 26). Witness Sponseller testified that the current means of notifying customers of the Premises Owner Surcharge for telephone usage are tent cards and stickers. Mr. Sponseller further offers that the tent cards and stickers are more than adequate to inform guests about their various calling options. (Sponseller, Prefiled Testimony, p. 8, lines 2 through 6).

This Commission finds that visual notification such as tent cards and stickers is an appropriate method of notification to the customer of the Premises Owner Surcharge. However, the Commission is concerned about the language on the notices. This Commission desires that the customer be given adequate information to enable the customer to make an informed decision regarding the completion of his/her phone call, i.e. whether to use the presubscribed carrier and incur the Premises Owner Surcharge, or to dial around to the carrier of the customers choice, and avoid the surcharge. Therefore, this Commission believes that additional language in the

notification of the Premises Owner Surcharge is necessary for the customer to be able to make an informed and intelligent decision regarding the phone call.

Therefore, this Commission orders that additional notification of the Premises Owner Surcharge be made available to the customer. Premise owners may provide this notification by the use of stickers or tent cards or other suitable means. The language to be used in the notification shall be drafted using a collaborative process among the Commission Staff and the parties to this proceeding, with the final language of the notification being subject to approval by this Commission. The premises owners are to provide this additional notification within three (3) months from the date of this Order.

Based upon the findings of fact stated above, the Commission makes the following conclusions of law:

1. That this Commission has jurisdiction over the subject matter of this proceeding by virtue of S.C. Code Regs. 103-821 and S.C. Code Ann. §58-3-140 (as amended), S.C. Code Ann. § 58-9-720, and S.C. Code Ann. 58-9-780.
2. That the Premises Owner Surcharge (sometimes referred to as Subscriber Charges or Property Imposed Fee) provision, included in the tariffs of Interexchange Carriers which provide Operator Services, be continued.
3. That visual notification of the Premises Owner Surcharge through the use of stickers and tent cards or some other suitable means is appropriate.

4. That additional language in the notification of the Premises Owner Surcharge is necessary to adequately inform the public of the surcharge and thereby allow the public to make informed and intelligent decisions regarding the use of the phone systems which impose the Premises Owner Surcharge.

IT IS THEREFORE ORDERED:

1. That the Premises Owner Surcharge (sometimes referred to as Subscriber Charges or Property Imposed Fee) provision, included in the tariffs of Interexchange Carriers which provide Operator Services, be continued.

2. That notification of the Premises Owner Surcharge be relayed to the customer through the use of stickers and tent cards displayed on or near the phone, or by other suitable means.

3. That the Commission Staff and the parties to this action join in a collaborative process to draft appropriate language to be used in the notification of the Premises Owner Surcharge.

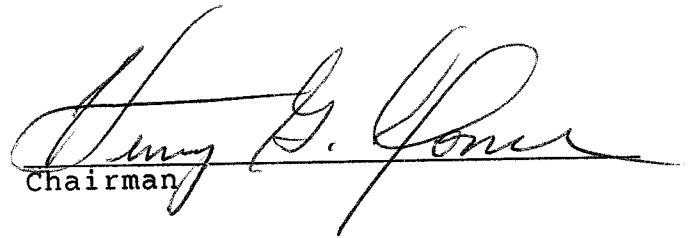
4. That the additional notification of the Premises Owner Surcharge is required to be in place within three (3) months from the date of this Order.

5. That the final language of the additional notification is subject to the approval of this Commission.

DOCKET NO. 92-557-C - ORDER NO. 93-413
MAY 14, 1993
PAGE 10

6. That this Order remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)